

**ANNEX A TO
COALITION PROVISIONAL AUTHORITY ORDER NUMBER 23**

**CREATION OF A CODE OF MILITARY DISCIPLINE FOR
THE NEW IRAQI ARMY**

**ELEMENTS OF MILITARY OFFENSES
CREATED UNDER SECTION 3**

- (a) mistreating in any way Members of the New Iraqi Army of inferior rank;**

Elements:

1. an act that amounted to mistreatment; and
2. the act was committed by a Member of the New Iraqi Army of superior rank (hereinafter in this subsection "superior rank") on a Member of the New Iraqi Army or a member of another armed force acting with the New Iraqi Army of inferior rank; and
3. the superior rank (accused) knew the victim was inferior in rank; and
4. the superior rank (accused) deliberately carried out the act; and
5. the superior rank (accused) knew that the act amounted to mistreatment

"Mistreatment" means unwarranted, harmful, abusive, rough, or other unjustifiable treatment which, under all the circumstances:

- (a) results in physical or mental pain or suffering, and
- (b) is unwarranted, unjustified and unnecessary for any lawful purpose.

- (b) causing or engaging in a disturbance or behaving in a disorderly manner;**

Elements:

1. the accused EITHER
 - (i) caused a disturbance, OR
 - (ii) became involved in a disturbance, OR
 - (iii) behaved in a disorderly manner; and
2. the accused acted in such a manner deliberately.

(c) behaving in an insubordinate manner;

Elements

1. the actions OR words of the accused were insubordinate, insulting or disrespectful to a Member of the New Iraqi Army or a member of another armed force of superior rank (hereinafter in this subsection "superior rank") or a civilian instructor placed in authority over the accused; and
2. the actions OR words of the accused were used in the presence of the superior or civilian instructor placed in authority over the accused; and
3. the accused knew that the superior or civilian instructor placed in authority over the accused was his or her superior or civilian instructor placed in authority over the accused; and
4. the accused deliberately spoke or acted in such insulting or disrespectful manner.

(d) striking a Member of the Iraqi Army, a member of another armed force acting with the New Iraqi Army of superior rank, or civilian instructor placed in authority over the accused (hereinafter in this subsection "superior")

Elements

1. the accused struck a Member of the New Iraqi Army, a member of another armed force acting with the New Iraqi Army, or civilian instructor placed in authority over the accused; and
2. the accused had no lawful excuse for striking the superior or civilian instructor placed in authority over the accused; and
3. the accused knew that the superior or civilian instructor placed in authority over the accused was his or her superior or civilian instructor placed in authority over the accused; and
4. the accused deliberately struck the superior or civilian instructor placed in authority over the accused

"Strike" means an intentional blow, and includes any offensive touching of the person of the superior, however slight.

(e) while on sentry duty either
(i) engaging in misconduct, or
(ii) failing to do the Member's duty;

Elements

1. the accused was on sentry duty; and
2. the accused EITHER

- (i) deliberately engaged in misconduct, OR
- (ii) the accused failed to carry out a duty whether deliberately or by neglect.

(f) disobeying a lawful order

Elements

- 1. an order was given to the accused; and
- 2. the order was lawful; and
- 3. the accused was aware of the order having been given to him; and
- 4. the accused deliberately or by neglect did not obey the order.

(g) drunkenness if, owing to the influence of alcohol or any drug, whether alone or in combination with any other circumstances, the Member is:

- (i) unfit to be entrusted with his duty,
- (ii) unfit to be entrusted with any duty which the Member was reasonably aware that he could be called upon to perform;
- (iii) behaving in a disorderly manner, or;
- (iv) behaving in any manner likely to bring discredit on the New Iraqi Army;

Elements

- 1. the accused knowingly took alcohol OR drugs; and
- 2. as a result thereof the accused EITHER
 - (i) was unfit to be entrusted with his duties, OR
 - (ii) was unfit to be entrusted with any duty that he was reasonably aware he could be called upon to perform, OR
 - (iii) behaved in a disorderly manner, OR
 - (iv) behaved in a manner likely to bring discredit on the Defence Force.

(h) absence without leave

Elements

- 1. the accused was required to be at his place of duty; and
- 2. the accused was not at his place of duty; and
- 3. the accused later returned to his place of duty; and
- 4. the accused did not have permission or a reasonable excuse for being away from his place of duty.

(i) avoiding the performance of a duty or negligently performing a duty

Elements

1. the accused had a duty to perform; and
2. the accused was aware of that duty; and, EITHER
 - (i) the accused did not perform that duty; and
 - (ii) the accused did not perform the duty either deliberately or by neglect, OR
 - (iii) the accused performed the duty to a poor standard; and
 - (iv) the accused performed the duty to a poor standard either deliberately or by neglect

(j) making a false statement concerning any official matter relating to the New Iraqi Army

Elements

1. the accused made a statement about official New Iraqi Army matters; and
2. the statement was false in a significant way; and
3. the accused knew that the statement was false at the time he made it.

(k) without reasonable excuse, fighting with another Member of the New Iraqi Army;

Elements

1. the accused was involved in a fight; and
2. the accused's involvement in the fight was deliberate; and
3. the fight was with another Member of the New Iraqi Army; and
4. the accused did not have a reasonable excuse for fighting.

(l) willfully or by neglect damaging or causing damage to or the loss of any property of the New Iraqi Army;

Elements

1. the accused lost OR damaged property of the New Iraqi Army; and
2. that loss or damage resulted from EITHER
 - (i) the deliberate acts of the accused, OR
 - (ii) the neglect of the accused.

(m) conduct to the prejudice of good order or military discipline

Elements

1. an act or omission by the accused; and
2. such act or omission was likely to prejudice good order or military discipline
3. the accused was aware, at the time of such act or omission, that the same was likely to prejudice good order or military discipline.

(n) behaving in a manner likely to bring discredit on the New Iraqi Army

Elements

1. an act or omission by the accused; and
2. such act or omission caused discredit to the New Iraqi Army; and
3. the accused was aware, at the time of such act or omission, that the act or omission was likely to bring discredit on the New Iraqi Army.